THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.25962 OF 2005

Dated: 06-12-2005

Between

Gavireddy Atchyamma, W/o. Appanna, Satyasri Kolla Vikraya Kendram, R/o. D.No.7-1/1, Gollala Mamidada, Pedapudi Mandal, East Godavari District.

...PETITIONER

AND

The District Panchayat Officer, East Godavari District, Kakinada and another.

...RESPONDENTS

ORDER:

Petitioner seeks a Writ of Mandamus to declare the action of the respondents in issuing notice for the removal of "Satyasri Kolla Vikraya Kendram" at D.No.7-1/1, Golla Mamidada, Peddapudi Mandal, East Godavari District as illegal and arbitrary.

Learned counsel for the petitioner submits that pursuant to the application made by the petitioner to the Grampanchayat Office, permission was accorded to run the shop for selling of hens (Sugana Company) only in 4 x 8 metres thatched shed in S.No.570/6 of the said panchayat vide resolution No.76 dated 03.11.2005. Since then petitioner has been doing broiler business and not running any poultry farm and also not selling any meat. While so, the second respondent issued a notice dated 29.11.2005 stating that the permission was

accorded only for the purpose of doing broiler business only but not for selling of meat and growing the chicken for the purpose of eggs and directed the petitioner to remove the shed.

Learned counsel for the petitioner further submits that the petitioner is not growing any broilers or chicken for laying eggs but he is selling broilers only. It is further submitted that without issuing any notice the respondents cannot straightaway direct the petitioner to remove the shed.

Admittedly an appeal lies against the order to the Gram Panchayat under Section 128 of the Panchayat Raj Act and whether the petitioner has violated the permission or not is a matter to be decided by the Gram Panchayat.

Having regard to the facts and circumstances of the case,
the petitioner is directed to file an appeal before the first respondent within ten days from the date of receipt of a copy of this order and on such an appeal being filed, the first respondent may consider and pass appropriate orders in accordance with law after giving reasonable opportunity to the petitioner and till then the shed of the petitioner for the purpose of selling broilers shall not be removed.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

December 6, 2005

DSK